IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WA.No. 1465 of 2007

AGAINST THE JUDGEMENT IN OP.21266/2002 Dated 21/03/2007
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APPELLANT/PETITIONER:

S.S.SUJA, SUDHABHAVANAM,
KOTTAYKKAPPURAM,
KLAPPANA P.O., KARUNAGAPPALLY.

BY ADV. SRI.K.KARTHIKEYA PANICKER
SMT.DAYA K. PANICKER

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE SECRETARY,
DEPARTMENT OF REVENUE, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, CIVIL STATION, KOLLAM.

3. THE TAHSILDAR, KARUNAGAPPALLY TALUK,
MINI CIVIL STATION, KARUNAGAPPALLY, KOLLAM.

4. BABU VAIDHYAN, THEVALAKKARA, KOLLAM.

R1 & R2 BY SR.GOVERNMENT PLEADER SMT.MEERA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1465 of 2007

Dated, this the 22nd day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

On a representation filed by the 4th respondent, the first respondent State of Kerala, has granted licence to run a tea shop in the Mini Civil Station, Karunagappally. Aggrieved by the licence so granted, petitioner has approached this Court in O.P.No.21266 of 2002. Petitioner states that she is a disabled person and therefore, the licence ought to have been granted to her by the respondents.

2. Taking into consideration that the 4th respondent has already been granted with a licence by the State Government and also keeping in view, that the petitioner is a disabled person, the Court in exercise of its extra ordinary and discretionary jurisdiction and to meet the ends of justice has thought it fit to direct the District Collector to auction the open space for running a tea shop in the Mini Civil Station, Karunagappally between the petitioner and the 4th respondent. The Court has also observed that the District Collector shall allot the open space for the purpose of conducting tea shop to the highest bidder.

3. Aggrieved by the aforesaid directions issued by the learned Single Judge, the petitioner in the writ petition has filed the present writ appeal.

4. The learned counsel appearing for the appellant vehemently contends before this Court that the Kerala Land Assignment Act, 1960 does not authorise for auctioning an open space for the purpose of running a tea stall or shop and therefore, he submits that the learned Single Judge was not justified in directing the District Collector to allot the open space after conducting

auction between the petitioner and the 4th respondent.

5. Having heard learned counsel for the appellant for quite some time, we are of the opinion that the submission made by the learned counsel has no merit whatsoever. In the instant case, the 4th respondent has approached the State Government and has obtained licence to run a tea stall in the Mini Civil Station, Karunagappally. The case of the petitioner is that the open space should be granted to her to run the tea shop on the sole ground that she is a disabled person. Keeping in view the claims and counter claims made by the petitioner as well as the 4th respondent and in the ends of justice, the learned Single Judge has thought it fit to exercise his discretionary and extra ordinary jurisdiction to direct the District Collector to auction the open space for the purpose of allotment between the petitioner and the 4th respondent and has also observed that the highest bidder shall be allotted the shop by the District Collector. The direction so issued by the learned Single Judge, in our opinion, as we have already stated, is to meet the ends of justice. Therefore, no exception can be taken to the order so passed by the learned Single Judge. Therefore, the writ appeal requires to be rejected and it is rejected without reference to the respondents.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns